



03-28-02

DAJ A1 4/8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stephenson et al.

Attorney Docket No. 054998/0002

Serial No.: 10/039,296

Examiner: Not assigned

Filed: October 19, 2001

Group Art Unit: Not assigned

For: NON-VOLATILE MAGNETIC MEMORY DEVICE

BOX DAC

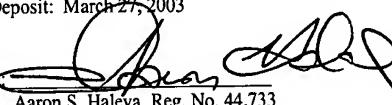
CERTIFICATE OF EXPRESS MAILING

Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated below and is addressed to: Box DAC, Commissioner for Patents, Washington, D.C. 20231.

Sir:

Express Mail Label No. EV020938370US
Date of Deposit: March 27, 2003

Signature: 
Aaron S. Haleva, Reg. No. 44,733
Kramer Levin Naftalis & Frankel LLP

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OFFICE OF PETITIONS

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR § 1.47(a)

This application has three named inventors. Two of them have refused to sign the Declaration and Power of Attorney submitted in this application. Applicants herewith submit this Request for Reconsideration of Petition Under 37 CFR § 1.47(a) for a ruling that the above-referenced application may be properly made without the signatures of joint inventors James C. Stephenson and Daniel Carothers. Inventor Bruce Shipley is the only inventor who has executed the Declaration and Power of Attorney which was submitted with the original Petition Under 37 CFR 1.47(a), filed on September 13, 2002 (the "Petition").

This Request for Reconsideration addresses the deficiencies noted in the Decision Refusing Status Under 37 CFR 1.47(a) mailed on October 28, 2002 (the "Decision"). A Petition for Extension of Time is submitted herewith, extending the time in which to respond to the Decision to March 28, 2002. Accordingly this Request for Reconsideration is being timely filed.

The Decision noted that any renewed petition should be accompanied by evidence to sufficiently establish that the non-signing inventors were sent a complete copy of the application papers and thereafter refused to execute the Declaration. The Decision further stated that "a copy of the application papers should be sent to the last known address of the non-signing inventors, or,

if the non-signing inventors are represented by counsel, to the address of the non-signing inventor's attorney." Submitted herewith is the Statement of Aaron S. Haleva, Esq., which sets forth the requisite evidence to sufficiently establish that the non-signing inventors, or their attorneys, where applicable, were sent a complete copy of the application papers and thereafter refused to execute the declaration. Accordingly, Applicants respectfully request that the above-identified application be allowed to proceed with the previously filed Declaration and Power of Attorney executed by inventor Bruce Shipley on behalf of himself and the non-signing inventors.

No additional fees are believed due herewith. However, the Commissioner is authorized to charge any such fee(s) or credit any overpayment(s) as deemed necessary for the entry of this Request for Reconsideration to Deposit Account No. **50-0540**. A duplicate copy of this Request for Reconsideration is provided herewith.

Respectfully submitted,

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attorneys for Applicants

By: 

Aaron S. Haleva, Reg. No. 44,7333
919 Third Avenue
New York, New York 10022
Tel. (212) 715-9100
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OF COUNSEL
 KENT M. KASTING, P.C.
 NIM M. MCGREGOR, P.C.
 D. RANDALL TRUEBLOOD, P.C.

March 26, 2003

VIA FACSIMILE & U.S. MAIL

Aaron S. Haleva
 KRAMER LEVIN NAFTALIS & FRANKEL
 919 Third Avenue
 New York, NY 10022-3852

Re: *James Stephenson*

Dear Aaron:

I have confirmed that Mr. Stephenson has no personal interest in securing the patent rights. His position regarding cooperation for Micromem's benefit remains the same as expressed in my earlier correspondence. In other words, Micromem holds the key to accomplishing the objectives outlined in your correspondence to Mr. Stephenson. If Micromem changes its position, and Mr. Stephenson can be of help, please feel free to contact me.

Very truly yours,


 ERIC P. LEE

EPL/ab
 cc: James Stephenson



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stephenson et al.

Attorney Docket No. 054998/0002

Serial No.: 10/039,296

Examiner: Not assigned

Filed: October 19, 2001

Group Art Unit: Not assigned

For: NON-VOLATILE MAGNETIC MEMORY DEVICE

CERTIFICATE OF EXPRESS MAILING

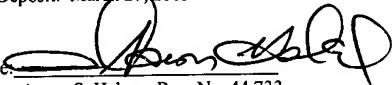
BOX DAC
Commissioner for Patents
Washington, D.C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated below and is addressed to: Box DAC, Commissioner for Patents, Washington, D.C. 20231.

Express Mail Label No. EV020938370US

Date of Deposit: March 27, 2003

Sir:

Signature: 
Aaron S. Haleva, Reg. No. 44,733
Kramer Levin Naftalis & Frankel LLP

**STATEMENT OF AARON S. HALEVA IN SUPPORT OF REQUEST FOR
RECONSIDERATION OF DECISION REFUSING STATUS UNDER 37 CFR § 1.47(a)**

1. My name is Aaron S. Haleva and I am an attorney with Kramer Levin Naftalis & Frankel LLP, 919 Third Avenue, New York, NY 10022-3852, telephone no. (212) 715-7773, the attorneys of record for the above identified application.

2. I have caused two complete copies of the entire above identified application (specification, claims, drawings, and Declaration and Power of Attorney) to be sent to each of the non-signing inventors, i.e. Daniel Carothers and James Stephenson via Certified Mail - Return Receipt Requested, and via Federal Express, to their respective last known addresses. I have also caused a complete copy of the application (specification, claims, drawings and Declaration and Power of Attorney) to be sent to Mr. Eric P. Lee, attorney for Mr. James Stephenson. The results of these mailings are detailed below.

3. On each of February 25 and 28, 2003 I caused correspondence containing the entire application (specification, claims, drawings, and Declaration and Power of Attorney) to be sent to Mr. Dan Carothers at his last known address, BAE Systems/Merrimack Facility, 130 Daniel Webster Highway, Merrimack, NH 03054. Attached hereto as Exhibit 1 are copies of our letters to

Mr. Carothers. Attached hereto as Exhibit 2 is the envelope from the Certified Mail mailing to Mr. Carothers after it was returned to our offices indicated "Not Deliverable as Addressed Unable to Forward." This is a strange result, inasmuch as attached hereto as Exhibit 3 is a copy of the Federal Express proof of delivery for the identical package, delivered to the same address, on March 3, 2003 at 9:33 A.M. and signed for by an "A. Simpson." Subsequent to the FedEx delivery to Mr. Carothers I heard nothing from him. On March 26, 2003 I telephoned Mr. Carothers at BAE Systems in Nashua, New Hampshire at the main phone number of (603) 885-4321. I confirmed that Mr. Carothers works in the Merrimack facility (where I had sent the two packages), and I obtained Mr. Carothers' direct dial telephone number there of (603) 885-2621 from the receptionist. I left a message for Mr. Carothers seeking his execution of the Declaration and Power of Attorney. The phone was answered by voice mail stating that Mr. Carothers was unavailable. I left a message with my name and contact information, as well as an explanation of why I had called. I left a similar second message a few hours later. I left a similar third message on March 27, 2003 at 10:30 AM, and verified once again that (603) 885-2621 is Mr. Carothers' direct dial at the company. So far I have had no reply to these messages.

4. Based on the foregoing facts and circumstances, Mr. Carothers, having received a complete copy of the application, has refused to sign the Declaration and Power of Attorney for the above identified application.

5. On each of February 25 and 28, 2003 I caused correspondence containing the entire application (specification, claims, drawings, and Declaration and Power of Attorney) to be delivered to Mr. James Stephenson at his last known address at 1368 Linda Rosa Avenue, Salt Lake City, UT 84106 via Certified Mail - Return Receipt Requested and via Federal Express. Copies of our letters to Mr. Stephenson are attached hereto as Exhibit 4. The letter was received by Mr. Stephenson on February 28, 2003, as is indicated by Exhibit 5, a copy of the domestic return receipt card which we received from the United States Postal Service. Attached hereto as Exhibit 6 is the proof of delivery from Federal Express for the identical packet for March 3, 2003.

6. On March 3, 2003 Mr. Stephenson sent us an email, a copy of which is attached hereto as Exhibit 7, indicating that he was represented by counsel, and that any further

communication be channeled through his counsel, Eric P. Lee. Attached hereto as Exhibit 8 is my letter of March 7, 2003 to Eric P. Lee, enclosing the complete application (specification, claims, drawings, and Declaration and Power of Attorney) as per Mr. Stephenson's request, and seeking Mr. Stephenson's signed Declaration and Power of Attorney. Attached hereto as Exhibit 9 is the proof of delivery for the shipment to Mr. Eric P. Lee for March 10, 2003, obtained from Federal Express. Shortly thereafter, on March 13, 2003 I received a letter from Mr. Lee advising that he was open to discussing resolution consistent with his letter of June 5, 2002. Attached hereto as Exhibit 10 is the letter I received from Mr. Lee dated March 13, 2003 as well as the referenced June 5, 2002 letter directed to Mr. Stephenson's former employer, Micromem Technologies, Inc. ("Micromem").

7. In the June 5, 2002 letter Mr. Lee offers to have Mr. Stephenson execute inventor documents if he receives the sum of \$23,250.00, which he claims is due Mr. Stephenson. As detailed in the statement of Minoj Pundit of Micromem ("Micromem") submitted with the Petition, each inventor's employment agreement obligates him to assign any invention to Micromem and execute all necessary documents related to any such invention. Micromem further asserts that this obligation is not excused due to any alleged claims by an employee for "accrued vacation and lodging expenses" even if valid. Here Mircomem steadfastly denies the validity of Mr. Stephenson's claims. In follow-up conversations with Mr. Lee subsequent to March 13, 2003, I was advised that Mr. Stephenson was not interested in executing any inventor documents whatsoever until his claims against Micromem Technologies are resolved. Mr. Lee stated that Mr. Stephenson will resolve those claims now for a check in the amount of \$23,250.00. This position was reiterated in a letter I received from Mr. Lee on March 26, 2003, attached hereto as Exhibit 11. This letter states that "Mr. Stephenson has no personal interest in securing the patent rights" and that "his position regarding cooperation for Micromem's benefit remains the same as expressed in my earlier correspondence."

PATENT
054998-0002

7. Based on the foregoing facts and circumstances, Mr. Stephenson refuses to sign the Declaration and Power of Attorney for the above-identified application, notwithstanding his having received a complete copy of the application, and his attorney, Mr. Lee, also having received a complete copy of the application.

Dated: March 27, 2003



Aaron S. Haleva

EXHIBIT 1



KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, N.Y. 10022 - 3852

CARRIE L. CAGGIANO

TEL (212) 715-7765
FAX (212) 715-8000
ccaggiano@kramerlevin.com

PARIS
47, AVENUE HOCHE 75008
TEL (33-1) 44 09 46 00
FAX (33-1) 44 09 46 01

February 25, 2003

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dan Carothers
BAE Systems
Merrimack Facilities
MER 15 - 1813
130 Daniel Webster Hwy.
Merrimack, NH
03054

RECEIVED

APR 01 2003

OFFICE OF PETITIONS

Dear Mr. Carothers:

Enclosed please find a complete copy (specification, claims, drawings and oath/declaration) of the above-identified application as filed with the U.S. Patent and Trademark Office on October 19, 2001. We once again kindly ask you to review these documents, execute the enclosed Declaration/Power of Attorney document as well as the enclosed Assignment, and return them to us as soon as possible. Also enclosed please find a self-addressed stamped envelope for your convenience.

Please be reminded that your employment agreement with Micromem Technologies, Inc. requires that you complete this documentation and, accordingly, it is not optional. Should you not complete, execute and deliver the document to us forthwith, we understand that Micromem will be forced to take alternative measures to see the patent application through. This will require Micromem to incur additional expenses in pursuing the patent application as a result of any non-cooperation and breach of employment agreements. We understand that Micromem will seek to recover these additional expenses from you.

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Mr. Dan Carothers
February 25, 2003
Page 2

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact us.

Very truly yours,



Carrie L. Caggiano
Legal Assistant

/clc

Enclosures

cc: Aaron S. Haleva, Esq.
Bhupinder Randhawa, Esq.



KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, N.Y. 10022 - 3852

CARRIE L. CAGGIANO

TEL (212) 715-7765
FAX (212) 715-8000
ccaggiano@kramerlevin.com

PARIS
47, AVENUE HOCHE 75008
TEL (33-1) 44 09 46 00
FAX (33-1) 44 09 46 01

February 28, 2003

VIA FEDERAL EXPRESS

Mr. Dan Carothers
BAE Systems
Merrimack Facilities
MER 15 - 1813
130 Daniel Webster Hwy.
Merrimack, NH
03054

Re: U.S. Patent Application No. 10/039,296
NON-VOLATILE MAGNETIC MEMORY DEVICE
Our Ref: 54988/2

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APR 01 2003

OFFICE OF PETITIONS

Dear Mr. Carothers:

Enclosed please find a complete copy (specification, claims, drawings and oath/declaration) of the above-identified application as filed with the U.S. Patent and Trademark Office on October 19, 2001. We once again kindly ask you to review these documents, execute the enclosed Declaration/Power of Attorney document as well as the enclosed Assignment, and return them to us as soon as possible. Also enclosed please find a self-addressed stamped envelope for your convenience.

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KRAMER LEVIN NAFTALIS & FRANKEL LLP

Mr. Dan Carothers
February 28, 2003
Page 2

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact us.

Very truly yours,


Carrie L. Caggiano
Legal Assistant

/clc

Enclosures

cc: Aaron S. Haleva, Esq.
 Bhupinder Randhawa, Esq.

EXHIBIT 2

KRAMER LEVIN NAFALIS & FRANKEL LLP
 919 THIRD AVENUE
 NEW YORK, NY 10022

FEB 25 2003
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 7039378 U.S. POSTAGE
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 Unclaimed Refused
 Abandoned - Not Known
 No Such Street & Number
 Vacant Ineligible
 No Mail Reception
 Box Closed No O, 1
 Returned For Better Address
 Postage Due

Mr. Dan Carothers
 BAE Systems
 Merrimack Facilities
 MFR Dept 1813
 130 Daniel Webster Hwy.
 Merrimack, NH

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KRAMER LEVIN NAFALIS & FRANKEL LLP

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 APR 01 2003

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EXHIBIT 3



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643

Telephone: 901-369-3600

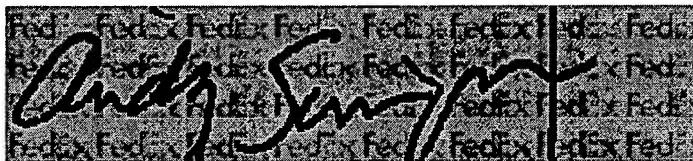
3/26/2003

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Signed For By: A.SIMPSON



Delivery Location: 144 DWH

Delivery Date: March 3, 2003

Delivery Time: 0933

Shipping Information:

Tracking No: 607120877866

Ship Date: February 28, 2003

Recipient:

MR. DAN CAROTHERS
BAE SYSTEMS/ MERRIMACK FACILIT
130 DANIEL WEBSTER HWY.
MERRIMACK, NH 03054
US

Shipper:

KRAMER LEVIN NAFTALIS FRANKEL
KRAMER LEVIN NAFTALIS FRANKEL
919 3RD AVE FL 38
NEW YORK, NY 100223908
US

Shipment Reference Information:

0549980000205353SM

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KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, N.Y. 10022 - 3852

CARRIE L. CAGGIANO

TEL (212) 715-7765
FAX (212) 715-8000
ccaggiano@kramerlevin.com

PARIS
47, AVENUE HOCHE 75008
TEL (33-1) 44 09 46 00
FAX (33-1) 44 09 46 01

February 25, 2003

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Stephenson
1368 Linda Rosa Avenue
Salt Lake City, Utah 84106

Re: U.S. Patent Application No. 10/039,296
NON-VOLATILE MAGNETIC MEMORY DEVICE
Our Ref: 54988/2

Dear Mr. Stephenson:

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KRAMER LEVIN NAFTALIS & FRANKEL LLP

Mr. James Stephenson
February 25, 2003
Page 2

Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact us.

Very truly yours,

Carrie L. Caggiano
Carrie L. Caggiano
Legal Assistant

/clc

Enclosures

cc: Aaron S. Haleva, Esq.
Bhupinder Randhawa, Esq.

KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, N.Y. 10022 - 3852

CARRIE L. CAGGIANO

TEL (212) 715-7765
FAX (212) 715-8000
ccaggiano@kramerlevin.com

PARIS
47, AVENUE HOCHE 75008
TEL (33-1) 44 09 46 00
FAX (33-1) 44 09 46 01

February 28, 2003

VIA FEDERAL EXPRESS

Mr. James Stephenson
1368 Linda Rosa Avenue
Salt Lake City, Utah 84106

Re: U.S. Patent Application No. 10/039,296
NON-VOLATILE MAGNETIC MEMORY DEVICE
Our Ref: 54988/2

Dear Mr. Stephenson:

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KRAMER LEVIN NAFTALIS & FRANKEL LLP

Mr. James Stephenson
February 28, 2003
Page 2

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Very truly yours,


Carrie L. Caggiano
Legal Assistant

/clc

Enclosures

cc: Aaron S. Haleva, Esq.
Bhupinder Randhawa, Esq.

EXHIBIT 5

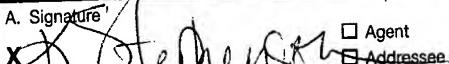
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- Print your name and address on the reverse so that we can return the card to you.
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1. Article Addressed to:

Mr. James Stephenson
1368 Linda Rose Ave.
Salt Lake City, Utah
84106

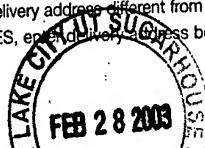
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 Agent Addressee

B. Received by (Printed Name)

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3. Service 
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 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number **7002 0460 0001 1040 6193**
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PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1035

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Shipping Information

Tracking Number: 607120877855
Shipper:
KRAMER LEVIN NAFTALIS FRANKEL
KRAMER LEVIN NAFTALIS FRANKEL
919 3RD AVE FL 38
NEW YORK, NY 100223908
US

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EXHIBIT 7



James Stephenson
<p-jcsn@physics.utah.
edu>

03/03/03 01:44 PM

To: ccaggiano@kramerlevin.com
cc: Eric Lee <elee@dadlaw.net>
Subject: patent application

Hi Carrie,

I am in receipt of the documents sent by your firm. As your records should indicate, I am represented by counsel and therefore request that any further communication regarding Micromem Technologies Inc. be channeled through him.

Best regards

James C. Stephenson

Counsel: Eric P. Lee
Dart, Adamson, & Donovan
370 East South Temple
Suite 400
Salt Lake City, Utah 84111
(801)521-6383

EXHIBIT 8

KRAMER LEVIN NAFTALIS & FRANKEL LLP
919 THIRD AVENUE
NEW YORK, N.Y. 10022 - 3852

AARON S. HALEVA
ASSOCIATE
TEL 212-715-7773
FAX 212-715-9397
ahaleva@kramerlevin.com

PARIS
47, AVENUE HOCHE 75008
TEL (33-1) 44 09 46 00
FAX (33-1) 44 09 46 01

March 7, 2003

VIA FEDERAL EXPRESS

Mr. Eric P. Lee
Dart, Adamson, & Donovan
370 East South Temple
Suite 400
Salt Lake City, Utah 84111

Re: Mr. James Stephenson - Execution of Inventor
Formalities for Patent Applications for
Micromem Technologies, Inc. ("Micromem")

Dear Mr. Lee:

We understand that you are representing Mr. James Stephenson in connection with the above-identified matter. In accordance with Mr. Stephenson's instructions of March 3, 2003, enclosed please find copies of our letter with attached documents as sent to him via Certified Mail, Return Receipt Requested on February 25, 2003, and via Federal Express on February 28, 2003.

Please note that inasmuch as Mr. Stephenson is an inventor of the pending applications, his co-operation is needed in executing various inventor documents for both the US as well as the foreign patent applications filed on Micromem technology. In the employment agreements he entered into with Micromem he pledged to fully cooperate in such matters. Since we have a United States application as well as several counterpart applications in foreign countries, to proceed without Mr. Stephenson's execution of requisite documents is possible, but at a great deal of effort and expense. Patent laws generally allow the continued prosecution of a patent application notwithstanding a recalcitrant and uncooperative inventor. However, it does require the filing of extraordinary petitions to explain the situation; as a result it also significantly increases legal fees as well as patent office extension fees because papers cannot be timely filed.

I am happy to discuss this matter at your convenience, but one thing your client does not want to do is become a proximate cause for the inability of Micromem to secure its intellectual property rights. If the patents cannot be timely prosecuted everyone loses. Your client is faced with significant liability exposure, and whatever interest or rights he may claim to the invention vanishes with the abandonment of any patent applications due to his delay.

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Mr. Eric P. Lee
March 7, 2003
Page 2

Please advise at your soonest convenience if we can expect these documents executed and returned so that we can proceed with the prosecution of the patent applications involved. This matter is not that complicated. We are at a loss as to why this has taken so long thus far.

Very truly yours,



Aaron S. Haleva

Enclosures

EXHIBIT 9



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

3/26/2003

Dear Customer:

Here is the proof of delivery for the shipment with tracking number **607120880461**. Our records reflect the following information.

Delivery Information:

Signed For By: M.WALKER

Delivery Location: 370 E SO TEMPLE 400

Delivery Date: March 10, 2003

Delivery Time: 1059

Shipping Information:

Tracking No: 607120880461

Ship Date: March 7, 2003

Recipient:

MR ERIC P LEE
DART ADAMSON & DONOVAN
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SALT LAKE CITY, UT 84111
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EXHIBIT 10

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March 13, 2003

VIA FACSIMILE & U.S. MAIL

Aaron S. Haleva
KRAMER LEVIN NAFTALIS & FRANKEL
919 Third Avenue
New York, NY 10022-3852

Re: *James Stephenson*

Dear Mr. Haleva:

Your March 7, 2003 letter requesting that Mr. Stephenson execute certain documents ends: "this matter is not that complicated. We are at a loss as to why this has taken so long thus far." Apparently, your client has not shared with you my June 5, 2002 letter addressing exactly why "this has taken so long . . ." A copy of that letter is enclosed for your reference. Feel free to give me a call so that we can discuss a resolution of this matter consistent with my June 5, 2002 letter.

Very truly yours,



ERIC P. LEE

EPL/ab
Enclosure(s)
cc: James Stephenson

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June 5, 2002

VIA FACSIMILE & U.S. MAIL

Munoj Pundit, Executive V.P.
MICROMEM TECHNOLOGIES INC.
777 Bay Street, Suite 1910
Toronto, Ontario M5G 2E4

Re: *James Stephenson*

Dear Mr. Pundit:

I represent James Stephenson. James provided copies of the "Declaration of Power of Attorney" and "Assignment" you recently forwarded to him. James also provided copies of the e-mail messages you sent regarding the documents. On May 27, you wrote that the assignment was "purely . . . a formality" requested by your attorneys. You pointed out that James had already executed an assignment in connection with the provisional patent application.

Your latest e-mail message suggests a different tone and position. You point out that the employment agreement between Micromem and James requires that he sign certain documentation and you threaten to pursue recovery of expenses incurred if he refuses to sign the documents.

Your new, aggressive approach to persuading James to sign the documents raises some concerns. Even if those concerns are addressed, I am not convinced that James has any obligation to sign the documents. The pertinent language in the Employment Agreement only requires executing "necessary documents . . . to enable the Corporation to file and obtain patents . . ." Your May 27 e-mail message admits that the documents are not necessary.

If the Employment Agreement obligates James to sign the documents, his obligation is excused while Micromem remains in material breach of the agreement. As you know, James

Munoj Pundit

June 5, 2002

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has had some difficulty persuading Micromen to honor its obligations regarding accrued vacation and lodging reimbursement. I understand that Micromem claims it has no such obligations because James did not give proper termination notice. The claim ignores the notice of resignation James gave Micromem's officers in November of 2001. At Micromem's request, James agreed to hold his November resignation in abeyance, but only so long as Micromem met certain conditions relating to the work James was doing at Pageant. The conditions were not met. James' final termination action was made pursuant to the November 2001 notice.

James is interested in resolving his differences with Micromem and cooperating as needed with regard to the referenced documents. He accrued 22 days of vacation and is entitled to reimbursement for lodging from September 1, 2001, through April 30, 2002. By our calculation, the vacation time is worth \$13,200.00 and the lodging reimbursement totals \$10,050.00. As soon as Micromem cures its breach by paying James the \$23,250.00 due him, he will execute the documents and deliver them to your courier.

If you would like to discuss any of these issues further, or would prefer that I contact your counsel regarding these matters, feel free to give me a call.

Very truly yours



ERIC P. LEE

EPL/ab

cc: James Stephenson

EXHIBIT 11